

1 Rule 11-201. Senior judges.

2 Intent:

3 To establish the qualifications, term, authority, appointment and assignment for senior judges  
4 and active senior judges.

5 Applicability:

6 This rule shall apply to judges of courts of record.

7 The term “judge” includes justices of the Supreme Court.

8 Statement of the Rule:

9 (1) Qualifications.

10 (1)(A) Senior Judge. To be a senior judge, a judge shall:

11 (1)(A)(i) have been retained in the last election for which the judge stood for election;

12 (1)(A)(ii) have voluntarily resigned from judicial office, retired upon reaching the mandatory  
13 retirement age, or, if involuntarily retired due to disability, shall have recovered from or shall  
14 have accommodated that disability;

15 (1)(A)(iii) demonstrate appropriate ability and character;

16 (1)(A)(iv) be admitted to the practice of law in Utah, but shall not practice law; and

17 (1)(A)(v) be eligible to receive compensation under the Judges’ Retirement Act, subject only  
18 to attaining the appropriate age.

19 (1)(B) Active Senior Judge. To be an active senior judge, a judge shall:

20 (1)(B)(i) meet the qualifications of a senior judge;

21 (1)(B)(ii) be physically and mentally able to perform the duties of judicial office;

22 (1)(B)(iii) maintain familiarity with current statutes, rules and case law;

23 (1)(B)(iv) satisfy the education requirements of an active judge;

24 (1)(B)(v) attend the annual judicial conference;

25 (1)(B)(vi) accept assignments, subject to being called, at least two days per calendar year;

26 (1)(B)(vii) conform to the Code of Judicial Conduct, the Code of Judicial Administration and  
27 rules of the Supreme Court;

28 (1)(B)(viii) obtain attorney survey results on the final judicial performance evaluation survey  
29 conducted prior to termination of service sufficient to have been certified for retention election  
30 by the Judicial Council regardless whether the survey was conducted for self improvement or  
31 certification;

(1)(B)(ix) continue to meet the requirements for certification for judicial retention election as those requirements are determined by the Judicial Council to be applicable to active senior judges; and

(1)(B)(x) take and subscribe an oath of office to be maintained by the state court administrator.

(2) Disqualifications. To be an active senior judge, a judge:

(2)(A) shall not have been removed from office or involuntarily retired on grounds other than disability;

(2)(B) shall not have been suspended during the judge's final term of office or final six years in office, whichever is greater;

(2)(C) shall not have resigned from office as a result of negotiations with the Judicial Conduct Commission or while a complaint against the applicant was pending before the Supreme Court or pending before the Judicial Conduct Commission after a finding of reasonable cause; and

(2)(D) shall not have been subject to any order of discipline for conduct as a senior judge.

(3) Term of Office. ~~A senior judge and active senior judge is appointed for three years unless earlier removed by the Supreme Court with or without cause. Upon application, a senior judge and active senior judge may be reappointed. An active senior judge may not serve beyond age 75.~~

(3)(A) The initial term of office of a senior judge is until December 31 of the second year following appointment. The initial term of office of an active senior judge less than age 75 years is until December 31 of the second year following appointment or until December 31 of the year in which the judge reaches age 75, whichever is shorter. The initial term of office of an active senior judge age 75 years or more is until December 31 of the year following appointment.

(3)(B) A subsequent term of office of a senior judge is for three years. A subsequent term of office of an active senior judge is three years or until December 31 of the year in which the judge reaches age 75, whichever is shorter. The subsequent term of office of an active senior judge age 75 years or more is for one year.

(3)(C) All subsequent appointments begin on January 1. The Supreme Court may withdraw an appointment with or without cause.

(3)(D) The term of office of senior judges and active senior judges in office on November 1, 2005 shall continue until December 31 of the year in which their terms would have expired under the former rule.

(4) Authority. A senior judge may solemnize marriages. In addition to the authority of a senior judge, an active senior judge, during an assignment, has all the authority of the office of a judge of the court to which the assignment is made.

(5) Application and Appointment.

(5)(A) To be appointed a senior judge or active senior judge a judge shall apply to the Judicial Council and submit relevant information as requested by the Judicial Council.

(5)(B) The applicant shall:

(5)(B)(i) provide the Judicial Council with the record of all orders of discipline entered by the Supreme Court; and

(5)(B)(ii) declare whether at the time of the application there is any complaint against the applicant pending before the Supreme Court or pending before the Judicial Conduct Commission after a finding of reasonable cause.

(5)(C) The Judicial Council may apply to the judicial performance evaluation information the same standards and discretion provided for in Rule 3-111.05. After considering all information the Judicial Council may certify to the Supreme Court that the applicant meets the qualifications of a senior judge or active senior judge and the Chief Justice may appoint the judge as a senior judge or active senior judge.

~~(5)(D) Senior judges and active senior judges holding those offices on the effective date of this rule may continue to serve in that capacity until the expiration of the term of appointment and thereafter shall meet the requirements of this rule.~~ Judges who declined, under former Rule 3-111, to participate in an attorney survey in anticipation of retirement may use the results of an earlier survey to satisfy Subsection (1)(B)(viii).

(6) Assignment.

(6)(A) With the consent of the active senior judge, the presiding judge may assign an active senior judge to a case or for a specified period of time. Cumulative assignments under this subsection shall not exceed 60 days per calendar year except as necessary to complete an assigned case.

92       (6)(B) In extraordinary circumstances and with the consent of the active senior judge, the  
93 chief justice may assign an active senior judge to address the extraordinary circumstances for a  
94 specified period of time not to exceed 60 days per calendar year, which may be in addition to  
95 assignments under subsection (6)(A). To request an assignment under this subsection, the  
96 presiding judge shall certify that there is an extraordinary need. The state court administrator  
97 shall certify whether there are funds available to support the assignment.

98       (6)(C) An active senior judge may be assigned to any court other than the Supreme Court.

99       (6)(D) The state court administrator shall provide such assistance to the presiding judge and  
100 chief justice as requested and shall exercise such authority in making assignments as delegated  
101 by the presiding judge and chief justice.

102       (6)(E) Notice of an assignment made under this rule shall be in writing and maintained by the  
103 state court administrator.  
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